

UNITED STATES DISTRICT COURT
District of Maine

U.S. DISTRICT COURT
PORTLAND, MAINE
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STATE OF MAINE)
and)
MAINE DEPARTMENT OF)
ENVIRONMENTAL PROTECTION,)

Plaintiffs)

v.)

UNITED STATES)
and)
UNITED STATES)
DEPARTMENT OF DEFENSE,)

Defendants)

BY: KD Chisholm
DEPUTY CLERK

Civil Action
94-166-P-H

CONSENT DECREE

WHEREAS, the State of Maine and the Maine Department of Environmental Protection (jointly referred to as "the State") filed the instant action against the United States and the United States Department of Defense (jointly referred to as "the United States") pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607(a), seeking to recover costs incurred or to be incurred in responding to the contamination at the Hooper Sands Road Site ("the Site");

WHEREAS, the parties wish to resolve this matter without further litigation and without any admission of liability;

NOW THEREFORE, it is agreed and stipulated that:

1. The United States agrees to pay the State the amount of \$1,006,875 within a reasonable time after the entry of this Consent Decree not to exceed six months.

2. In exchange for this payment, the State releases and covenants not to sue the United States for any and all claims for monetary damages predating January 1, 1995 including claims to reimburse the State's response costs incurred prior to January 1, 1995, or declaratory relief regarding future response costs as well as any attorney fees and costs, except for:

(a) claims pursuant to section 107(a)(4)(C) of CERCLA, 42 U.S.C. § 9607(a)(4)(C), for natural resource damages; and

(b) claims pursuant to section 107(a)(4)(A) of CERCLA, 42 U.S.C. § 9607(a)(4)(A), for costs of removal or remedial action incurred by the State subsequent to January 1, 1995.

3. The State further agrees to dismiss the instant complaint with prejudice except for (1) the claim for natural resource damages and (2) the claim for any costs of removal or remedial action taken by the State subsequent to January 1, 1995. These two claims shall be dismissed without prejudice.

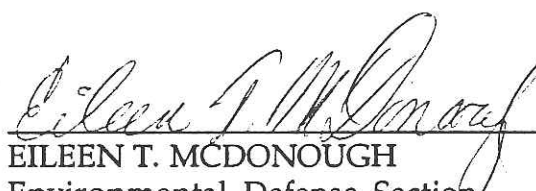
4. Nothing in this Consent Decree shall affect, restrict, or waive any claim by the United States on behalf of the U.S. Environmental Protection Agency ("EPA") or any natural resource damage trustee. Maine reserves any and all defenses it has to any such claims as well as any and all rights Maine may have, under CERCLA, to participate, along with EPA, in the full remediation of the Hooper Sands Road Site.

5. Nothing in this Consent Decree shall be construed as an admission of liability or of any question of fact or law and nothing herein shall constitute a waiver of any claim which either the United States or Maine may have against any legal entity not a party to this Consent Decree.

6. Any obligations of the United States to obligate or expend funds under this Consent Decree are subject to the availability of appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. § 1341. This Consent Decree shall not be construed to require the United States to obligate or pay funds in contravention of said Anti-Deficiency Act, 31 U.S.C. § 1341.

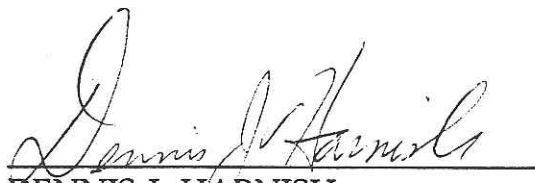
SO AGREED:

LOIS J. SCHIFFER
Assistant Attorney General


EILEEN T. MCDONOUGH
Environmental Defense Section
U.S. Department of Justice
10th St. & Pennsylvania Ave., N.W.
Washington, D.C. 20530
(202) 514-3126

Counsel for United States

Dated: March 27, 1995


DENNIS J. HARNISH
Assistant Attorney General
Department of Attorney General
State House Station #6
Augusta, Maine 04333
(207) 626-8800

Counsel for the State

Dated: January 6, 1995

SO ORDERED:


UNITED STATES DISTRICT JUDGE


EXECUTED ON:

March 30, 1995

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was
served on March 27, 1995, by first-class mail, postage prepaid,
upon:

Dennis J. Harnish
Assistant Attorney General
Department of Attorney General
State House Section 6
Augusta, Maine 04333-0006


Eileen T. McDonough